

## PATENT COOPERATION TREATY

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## INTERNATIONAL PRELIMINARY EXAMINATION REPORT



(PCT Article 36 and Rule 70)

10/538423

Applicant's or agent's file reference IN/PA-210	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/IN 03/00065	International filing date (day/month/year) 21.03.2003	Priority date (day/month/year) 12.12.2002
International Patent Classification (IPC) or both national classification and IPC C12N15/61		
Applicant DEPARTMENT OF BIOTECHNOLOGY et al.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 4 sheets, including this cover sheet.
- ☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).
- These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:
- I ☒ Basis of the opinion
  - II ☐ Priority
  - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
  - IV ☐ Lack of unity of invention
  - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
  - VI ☐ Certain documents cited
  - VII ☐ Certain defects in the international application
  - VIII ☐ Certain observations on the international application

Date of submission of the demand  23.06.2004	Date of completion of this report  24.01.2005
Name and mailing address of the international preliminary examining authority:   European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer  Scheffzyk-Sonnauer,  Telephone No. +49 89 2399-8602 

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT**

International application No. PCT/IN 03/00065

**I. Basis of the report**

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

**Description, Pages**

1-15 as originally filed

**Claims, Numbers**

1-6 as originally filed

**Drawings, Figures**

1-6 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).  
☐ the language of publication of the international application (under Rule 48.3(b)).  
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.  
☐ filed together with the international application in computer readable form.  
☐ furnished subsequently to this Authority in written form.  
☐ furnished subsequently to this Authority in computer readable form.  
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.  
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:  
☐ the claims, Nos.:  
☐ the drawings, sheets:

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT**

International application No. PCT/IN 03/00065

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

*(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)*

6. Additional observations, if necessary:

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes: Claims	1-6
	No: Claims	
Inventive step (IS)	Yes: Claims	
	No: Claims	1-6
Industrial applicability (IA)	Yes: Claims	1-6
	No: Claims	

2. Citations and explanations

**see separate sheet**

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT - SEPARATE SHEET**

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International application No. PCT/IN 03/00065

**SECTION V-----**

Presently claimed subject-matter seems to be novel since neither the protein nor the gene PINO1 is taught in the available prior art. However, the presence of an inventive step cannot be acknowledged since the provision of the sequence encoding PINO1 apparently could be performed in a straightforward manner without the use of inventive skill (see pages 3 and 4 of present application).

**General remarks:**

- 1). Claim 2 is completely unclear: "coding as claimed in claim 1....?!". In addition, a nucleotide sequence normally does not contain amino acids! Moreover, the nucleotide sequence recited in claim 1 already encodes a protein having 512 amino acid residues- even without any additional residues?!
- 2). Claim 3 seems to be incomplete since features essential to the performance of presently claimed method are apparently missing, such as for instance the primers appropriate to arrive at isolating the PINO1 gene (Art. 6 PCT).
- 3). As regards claim 4 it is unclear whether the term pET20B(+) has a well-recognized technical meaning to a person skilled in the art.